

The opinion in support of the decision being entered today was not written
for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte LEONID A. YEGOSHIN

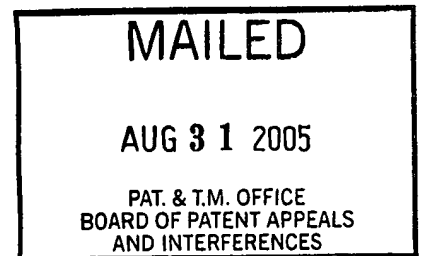
Appeal No. 2005-1908
Application No. 09/229,589

ON BRIEF

Before THOMAS, BARRETT, and OWENS, Administrative Patent Judges.
OWENS, Administrative Patent Judge.

DECISION ON APPEAL

This appeal is from a rejection of claims 1, 2, 4-8, 10-14, 16 and 17, which are
all of the pending claims.



THE INVENTION

The appellant claims a system and method for calls between Internet-capable call appliances. Claim 1, which claims the system, is illustrative:

1. A system for simulating connection-oriented telephony functions in an IP network, comprising:

two or more IP routers interconnected with at least two Internet-capable call appliances on the network; and

software managing setup and execution of IP calls between the two or more Internet-capable call appliances through the routers;

wherein IP calls are managed between one of said call appliances originating IP calls, wherein the IP calls terminate to an end destination of another of said call appliances by the software by setting up separate and distinct end node legs between call appliances and routers, and separate and distinct intermediate legs between routers, and then joining and disjoining legs to establish voice communication and to provide telephony functions between said call appliances, and maintaining call legs once established for future use to be rejoined to other established call legs.^[1]

¹ Claim 1 (and the other independent claims) require as few as two routers and Internet-capable call appliances. It appears that at least a third router and Internet-capable call appliance are needed if there is to be a requirement for maintaining call legs for future use to be rejoined to other established call legs, as required by all of the independent claims. In the event of further prosecution the examiner and the appellant should address whether the requirement of as few as two routers and Internet-capable appliances is consistent with the limitation of maintaining call legs for future use to be rejoined to other established call legs. If it is determined that maintaining the call legs for that future use is merely a future possibility and is not required, then the examiner and the appellant should address whether the claims encompass the conventional system and method for calls between two personal computer phones discussed by Guy (col. 5, lines 50-52; col. 7, lines 4-6).

THE REFERENCES

Andrews et al. (Andrews)	5,848,143	Dec. 8, 1998
Guy et al. (Guy)	5,940,479	Aug. 17, 1999 (filed Oct. 1, 1996)
Rosenberg	6,304,567	Oct. 16, 2001 (filed Oct. 29, 1997)

THE REJECTIONS

The claims stand rejected under 35 U.S.C. § 103 as follows: claims 1, 4-7, 10-14 and 17 over Guy in view of Rosenberg, and claims 2, 8 and 16 over Guy in view of Rosenberg and Andrews.

OPINION

We affirm the aforementioned rejections.

The appellant states that the claims stand or fall together (brief, page 8). Although an additional reference is applied to some of the dependent claims, the appellant does not separately argue the patentability of those claims. We therefore limit our discussion to one claim, i.e., claim 1. See *In re Ochiai*, 71 F.3d 1565, 1566 n.2, 37 USPQ2d 1127, 1129 n.2 (Fed. Cir. 1995); 37 CFR § 1.192(c)(7)(1997).

Guy discloses a system for transmitting aural signals across a wide area network (WAN) that can be the Internet (col. 3, lines 25-27; col. 6, lines 22-25). The WAN couples a router (114) interconnected with a personal computer phone (PC-phone) system (103/105) to another router (132) interconnected with a PC-phone system

(143/145) (col. 5, lines 21-24 and 64-65; figure 1). Guy discloses that in conventional PC-phone systems, PC-phones are able to communicate with other PC-phones (col. 5, lines 50-52; col. 7, lines 4-6).² Guy improves on the conventional system by using gateways (101A and 101B) to permit communication between a PC-phone and a non-Internet-capable phone such as one coupled to a key telephone system, a private branch exchange or the public switched telephone network (PSTN), or between two non-Internet-capable phones (col. 3, lines 25-30; col. 5, lines 33-42).

Rosenberg discloses that maintaining established Internet call connections between Internet telephone gateways (ITGs) for as long as calls are being made between the locations is more efficient than the conventional approach of using protocols that establish and tear down an Internet connection for each station-to-station call (col. 2, lines 1-5; col. 3, lines 24-31; col. 4, lines 13-18 and 45-52).

The appellant argues that Guy's PC-phones do not communicate with each other but, rather, communicate only with phones on the PSTN (brief, pages 10-13). As pointed out above, Guy teaches that the conventional PC-phone system permits communication only between PC-phones, and that Guy improves on that system by enabling calls over a WAN between a PC-phone and a non-Internet-capable phone, or

² Such calls necessarily involve setting up end node legs between the PC-phones and the routers and intermediate call legs between the routers.

between two non-Internet-capable phones. This teaching, together with Guy's disclosure that his system includes, on each side of the WAN, a PC-phone coupled to the WAN through a router (figure 1) would have fairly suggested, to one of ordinary skill in the art, using, with Guy's system, software that provides the benefit of enabling calls to be made using both the conventional approach, wherein calls are made between PC-phones on each side of the WAN, and Guy's improvement wherein calls are made to and/or from a non-Internet-capable phone.

The appellant argues that "[s]ince Rosenthal [sic] clearly does not teach Internet-capable call appliances, appellant strongly argues that Rosenthal [sic], therefore, cannot set up and maintain separate and distinct end node legs between Internet-capable call appliances and routers" (brief, page 14). This argument is deficient in that the appellant is attacking the reference individually when the rejection is based on a combination of references. See *In re Keller*, 642 F.2d 413, 426, 208 USPQ 871, 882 (CCPA 1981); *In re Young*, 403 F.2d 754, 757-58, 159 USPQ 725, 728 (CCPA 1968). As discussed above, Guy is applied for a suggestion of a system for making calls between Internet-capable appliances.

The appellant argues that "[i]t is clearly taught [by Rosenberg] that the call legs are established and maintained between the Internet gateways, not, in addition, between Internet-capable call appliances and routers (switches), as claimed in the

instant application” (brief, page 14). Guy discloses that 1) the calls can be between two non-Internet-capable phones via gateways or between a PC-phone and, via a gateway, a non-Internet-capable phone (col. 5, lines 33-42), 2) the system includes, on each side of the WAN, a PC-phone coupled to the WAN by a router (figure 1), and 3) in conventional PC-phone systems, PC-phones communicate with other PC-phones (col. 5, lines 50-52; col. 7, lines 4-6). In view of those disclosures, Rosenberg would have fairly suggested, to one of ordinary skill in the art, establishing and maintaining call legs in Guy’s system to obtain increased efficiency (Rosenberg, col. 3, lines 24-31), regardless of whether the calls are between two non-Internet-capable phones via gateways, between a PC-phone and, via a gateway, a non-Internet capable phone, or between two PC-phones.³

We therefore conclude that the system claimed in the appellant’s claim 1 would have been obvious to one of ordinary skill in the art over the applied prior art. Accordingly, we affirm the rejections of that claim and claims 2, 4-8, 10-14, 16 and 17 that stand or fall therewith.


³ The appellant does not argue that the applied prior art would have failed to provide such a suggestion to one of ordinary skill in the art.

DECISION

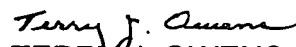
The rejections under 35 U.S.C. § 103 of claims 1, 4-7, 10-14 and 17 over Guy in view of Rosenberg, and claims 2, 8 and 16 over Guy in view of Rosenberg and Andrews, are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED


JAMES D. THOMAS
Administrative Patent Judge


LEE E. BARRETT
Administrative Patent Judge


TERRY J. OWENS
Administrative Patent Judge

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